

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

Tomas Morales, et al.,

NO. C 09-04669 JW

Plaintiffs,

v.

American Electrical Services Inc., et al.,

Defendants.

**ORDER VACATING CASE
MANAGEMENT CONFERENCE;
SETTING HEARING ON ORDER TO
SHOW CAUSE RE: (1) DISMISSAL FOR
FAILURE TO PROSECUTE AND (2)
SETTLEMENT**

This case is scheduled for a Case Management Conference on March 22, 2010. The parties submitted a Joint Case Management Statement and Proposed Order. (See Docket Item No. 21.) In their Statement, the parties informed the Court that all but two Plaintiffs reached a settlement with Defendants in mediation on February 22, 2010. (See id. at 2.) The parties represent that the two non-settling Plaintiffs—Tomas Morales and Jonhatan Maldonado—were not present at the mediation and have been otherwise absent from the case. (Id.) Plaintiffs' counsel has moved to withdraw from representation of the two absent Plaintiffs. (See Docket Item No. 9.)

In light of the settlement, the Court VACATES all trial and pretrial dates¹ and ORDERS as follows:


- (1) On or before **April 16, 2010**, the parties shall file a stipulated dismissal pursuant to Federal Rule of Civil Procedure 41(a). If a dismissal is not filed by the specified date, all parties shall appear in Courtroom No. 8, 4th Floor, United States District

¹ Accordingly, the Court DENIES as moot the parties' requests to appear telephonically. (See Docket Item Nos. 22, 23.)

1 Court, 280 South First Street, San Jose, Ca. on **April 26, 2010 at 9 a.m.** and to show
2 cause, if any, why the case should not be dismissed pursuant to Fed. R. Civ. P. 41(b).
3 On or before **April 16, 2010**, the parties shall file a joint statement in response to the
4 Order to Show Cause. The joint statement shall set forth the status of the activities of
5 the parties for finalizing the settlement and how much additional time is requested to
6 finalize and file the dismissal. If a voluntary dismissal is filed as ordered, the Order
7 to Show Cause hearing will be automatically vacated.

- 8 (2) The Court ORDERS Plaintiffs Morales and Maldonado to appear in Courtroom No.
9 8, 4th Floor, United States District Court, 280 South First Street, San Jose, CA on
10 **April 26, 2010 at 9:00 a.m.** and to show cause, if any, why this case should not be
11 dismissed for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). On or before
12 **April 16, 2010**, Plaintiffs Morales and Maldonado shall file a response to this Order
13 setting forth the reason why the case should not be dismissed. Failure to file a
14 response will be sufficient for the Court to dismiss this action as these non-settling
15 Plaintiffs.
- 16 (3) In the interest of judicial economy, the Court advances the hearing date for the
17 pending Motion to Withdraw from June 17, 2010 to **April 26, 2010 at 9 a.m.**

18
19
20 Dated: March 17, 2010



JAMES WARE
United States District Judge

1 **THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:**

2 Bernard James Fitzpatrick bjfitzpatrick@fandslegal.com
3 Charles Swanston cswanston@fandslegal.com
4 Christopher Edward Panetta Cpanetta@fentonkeller.com
5 Gary J Clifford gary@polarislawgroup.com

6 **Dated: March 17, 2010**

Richard W. Wieking, Clerk

7 **By: /s/ JW Chambers**
8 **Elizabeth Garcia**
9 **Courtroom Deputy**